



Virginia
Regulatory
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Proposed Regulation Agency Background Document

Agency name	Department of Charitable Gaming
Virginia Administrative Code (VAC) citation	11 VAC 15-31
Regulation title	Supplier Regulations
Action title	Changes to incorporate recent amendments to the Code of Virginia and update related provisions related to distribution of gaming supplies to qualified charitable organizations.
Document preparation date	December 8, 2004

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.

The primary focus of the amendments is to reflect numerous relevant changes that have occurred in the Code of Virginia since the current regulations became effective (January 1, 1998). Other substantive changes requirements that a supplier must be authorized to conduct business in Virginia, must notify the Department within 20 days of any regulatory or legal actions taken in any other jurisdiction, and must be in compliance with applicable federal laws. Other changes simplify and clarify the regulations while also complying with proposed changes to the Charitable Gaming Rules and Regulations (11 VAC 15-22).

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

§ 18.2-340.15, *et seq.*, Code of Virginia provides that the Department is vested with control of all charitable gaming in the Commonwealth and that the Board shall have the power to prescribe regulations and conditions under which such gaming is authorized. Acts 2003, c.884, cl. 5 provides: "That the Charitable Gaming Board shall examine regulations, including the computation and percentage of gross receipts that are required to be used for charitable purposes by qualified organizations and provide a report to the Governor and the 2004 session of the General Assembly. The report shall include the Board's plans regarding regulatory action on these issues, and anticipated timetable for such action."

The required report, which was submitted on December 2, 2003, concluded: "The Board concurs that a comprehensive revision to the Charitable Gaming Rules and Regulations and the Supplier Regulations is needed..." The Board reported an anticipated timetable for the process to amend the regulations as approximately 18 months to complete, occurring between June 2004 and January 2006.

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal and the problems the proposal is intended to solve.

The 2003 General Assembly (Chapter 884, 2003 Acts of Assembly) created the Department of Charitable Gaming (the Department) and the Charitable Gaming Board (the Board) to replace the former Charitable Gaming Commission (the Commission). The current Supplier Regulations were adopted by the former Commission and became effective January 1, 1998. They include many references to the Commission, which no longer exists, as well as other statutes that have since been amended. The goal of the amended regulations is to simplify and clarify the regulations while also making them consistent with current statutes.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the "Detail of changes" section.)

The regulations contain 42 references to the former Charitable Gaming Commission that are proposed to now be changed to the Department of Charitable Gaming or Charitable Gaming Board where appropriate and consistent with the statute. Several definitions are proposed to be updated and clarified. The regulations have also been amended where necessary to be consistent with the Proposed Charitable Gaming Rules and Regulations (11 VAC 15-22). The Charitable Gaming fiscal year is proposed to be changed from the current fiscal year of October 1 to September 30 to now be consistent with the calendar year.

Issues

Please identify the issues associated with the proposed regulatory action, including:
 1) *the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
 2) *the primary advantages and disadvantages to the agency or the Commonwealth; and*
 3) *other pertinent matters of interest to the regulated community, government officials, and the public.*

If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

- 1) The primary advantage to the public is that through consistent and effective regulation, the public will be able to participate in bingo, instant bingo and raffles that provide funding for charitable organizations while ensuring the highest level of integrity is maintained. This will protect the public from fraud while increasing the funding for charity. Clarified regulations should also benefit those businesses that are registered with the Department as required by law by making it easier to understand and comply with the regulations. There are no disadvantages to the public or the businesses in the proposed regulations.
- 2) The primary advantage to the Commonwealth is that the Department will be more efficient in audit and control of permitted gaming activities and better able to detect and prosecute fraud, theft and other irregularities. There are no disadvantages to the Commonwealth in the proposed regulations.
- 3) The regulated community should benefit from regulations that are clearer and more concise, and therefore more easily complied with. The regulated community may see some additional record keeping and reporting requirements that are necessary for the privilege to deliver supplies to gaming operations.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures	NO ADDITIONAL COST
Projected cost of the regulation on localities	NO ADDITIONAL COST
Description of the individuals, businesses or other entities likely to be affected by the regulation	Businesses that distribute charitable gaming supplies in the Commonwealth of Virginia.
Agency’s best estimate of the number of such entities that will be affected	22
Projected cost of the regulation for affected individuals, businesses, or other entities	The proposed regulations may impose some minimal added record keeping and reporting requirements. The Department is in the process of implementing cost savings strategies, such as on-line reporting and payment processing and on-line licensing renewal that will offset any additional costs to the suppliers.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.

Because of the fact that statutory changes have made the existing regulations obsolete, no other alternatives were considered.

Public comment

Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.

Commenter	Comment	Agency response
Anonymous	Suggested all gambling should be illegal	Advised commenter to contact state legislators as this would require a statutory change.
Tim Stuart	Recommended further limitations on electronic devices	Included in the proposed regulation is a reduction in the number of card faces permitted per device from 72 to 54 as was recommended.
Jerry Gorman	Recommended further limitations on electronic devices	Included in the proposed regulation is a reduction in the number of card faces permitted per device from 72 to 54 as was recommended.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

It is projected that the proposed regulations will have no impact of the institution of the family and family stability.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
15-31-10		Definitions	Clarified and added new definitions consistent with statutes. Makes definitions consistent with Proposed Charitable Gaming Regulations (11 VAC 15-22)
15-31-20		Sets qualifications for supplier registration and requirements for background checks and reporting of sales.	Adds to the qualification requirements that the entity is authorized to conduct business in Virginia. Allows for denial or revocation of certificate if a supplier or his employee is convicted of certain offenses, fails to report regulatory or legal action taken in another jurisdiction or fails to comply with federal laws. Clarifies exceptions to limitation on distribution of gaming supplies and make them consistent with current law. Further limits suppliers' involvement in gaming. Requires out-of-state criminal records checks for suppliers not domiciled in Virginia. Clarifies what transactions must be reported to the Department on an annual basis. Clarifies standards for testing of electronic devices. Changes the reporting period to be consistent with the calendar year.
15-31-30		Establishes standards for construction and randomization	Adjust requirements based on current law and industry standards. Reduces the number of cards faces on electronic bingo machines from 72 to 54, as was recommended by a focus group of suppliers.
15-31-40		Instant bingo and pull-tabs	No changes
15-31-50		Fact Finding Conferences	Technical adjustments per statutory changes
15-31-60		Reporting Violations	Technical adjustments per statutory changes